THE HON'BLE SRI JUSTICE P.S. NARAYANA

W.P.No.18348 of 2006

Date : 8-9-2006

Between:

1. Sri Venkateswara Road Transport Association, (Reg.No.141 of 2004), represented by its President G.Suresh Kumar, s/o.G.Sambhashiva Rao, Hindu, aged 34 years, R/o.D.No.13-7-796, Tuda Road, Tirupati, Chittoor District, A.P.
2. Sri CH.Suryanarayana s/o.Subba Rao, Hindu, aged 42 years, R/o.19 R.N.Mada Street, Navata Road Transport, Tirupati, Chittoor District, A.P.
3. Sri B.Ramachandra Naidu, s/o.B.Chengalraya Naidu, Hindu, aged 62 years, Vasavi Transport, D.No.7-1-17, R.N. Mada Street, Tirupati, Chittoor District, A.P.
4. Sri G.Sridhar, s/o.Govindaswamy, Hindu, aged 40 years, VRL Transport, 101 R.S.Mada Street, Tirupati, Chittoor District, A.P.
5. Mr.B.Rajasekhar s/o.B.Ramachandra Naidu, Hindu, aged 33 years, Agent, ABT Transport, D.No.7-1-21, R.N. Mada Street, Tirupati, Chittoor District, A.P.
6. Mr.M.Surendra Reddy s/o.Sidda Reddy, Hindu, aged 42 years, Agent, Kranti Road Transport, D.No.94, R.S. Mada Street, Tirupati, Chittoor District.
7. Mr.M.V. Gangadharan s/o.Govinda, Hindu, aged 25 years, SRMT Transport, 7-3-96A, R.N. Mada Street, Tirupati, Chittoor District, A.P.
8. Sri P.Sivarani Reddy s/o.Nagi Reddy, Hindu, aged 44 years, D.No.7-19, Covuru, Transport, Tirupati, Chittoor District, A.P. ..

Petitioners

And

1. Tirupati Municipality, represented by

its Commissioner, Tirupati.
2. Tirumala Tirupati Devasthanams, rep.by its Executive Officer, Tirupati, Chittoor District, A.P.
3. Inspector of Police (Traffic), Tirupati, Chittoor District, A.P. ..

Respondents

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ORDER:

1. This Court ordered notice before admission on 1-9-2006 and Sri S.I. Newton had prayed for time to get instructions. This Court directed in the meanwhile not to take any coercive steps for a period of two weeks. Thus the matter is appearing in the list.

2. Sri Newton had placed instructions before this Court wherein the stand taken by the Tirupati Municipality, the 1st respondent herein and also Tirumala Tirupati Devasthanams, the 2nd respondent herein, had been specified. Sri Harinath Gupta had taken notice on behalf of the 2nd respondent.

3. Heard Sri A.M. Krishna, the learned Counsel representing the petitioners and Sri S.I. Newton, Counsel representing the 1st respondent. Incidentally it may be stated that the communication addressed by the Executive Officer of Tirumala Tirupati Devasthanams to the Commissioner, Tirupati Municipality, Tirupati also is placed before this Court.

4. The Writ Petition is filed for a Writ of Mandamus

declaring the proposed action of respondents 1 and 2 in initiating steps to close down the business of petitioner society members as illegal, arbitrary, unconstitutional, violation of fundamental rights and consequently direct the respondents not to involve with the activities of the petitioners and to pass such other suitable orders. It is stated that the petitioner society is a registered body and certain facts in relation thereto also had been elaborated. It is further stated that the petitioners are carrying out their activities as agent to transport company and their day to day activities are receiving parcels of goods like pharmaceuticals and other essential items which are transported from place to place from Tirupati to their main transport companies which are located in and around Tirupati town and Renigunta area and further transport companies are delivering the goods to petitioner's office which are situate in Tirupati. Further the petitioners receive the goods as per invoice and deliver them to customers on commission basis. It is also stated that they had invested huge amount and took the office on lease basis and carrying out their business without causing any inconvenience to general public. The petitioners activities are mainly involved during late night time or early morning hours and it is further stated that the 3rd respondent also observed their activities. The petitioners have been paying municipal tax regularly for the business which they are conducting as agents of the transport company. It is also

further stated that they have received notice from the 1st respondent under Sections 41, 42, 43, 44, 45, 51 and 134 of A.P. Public Health Act 1969 and the petitioners replied to the 1st respondent stating that they are not resorting to any activities which are mentioned in the notice. Further the 2nd respondent is instigating the 1st respondent to initiate action for vacating the premises of the petitioner's office as the offices are in R.N.Mada Street, R.S.Mada Streets around Sri Ramulavari Temple at Tirupati. It is also stated that the activities of the petitioners are not causing any inconvenience at all to the general public or pilgrims who are visiting the temple. It is further stated that the premises of the petitioner's area had already been inspected by the 3rd respondent and the 3rd respondent had strictly advised the petitioners to carry out their business only at night time between 9.30 P.M. till 5.30 A.M. and accordingly the petitioners are strictly following their activities. The said proceedings also had been enclosed. It is also stated that the local inhabitants also had given a statement in respect of the petitioners business and clarified that they are not facing any disturbance because of these activities and the said representation also had been enclosed along with the material papers filed with the Writ Petition. It is further stated that the petitioners are all unemployees and they have no livelihood other than the present agency business. Several other factual details had been narrated relating to the

investment and the other affairs. It is also stated that the petitioners have been doing business as commission agents to transport companies which had already obtained the permission to carry on their business through out India and also in the State of Andhra Pradesh and the factual details in relation thereto also had been explained.

5. The 2nd respondent herein, the Executive Officer, Tirumala Tirupati Devasthanams had addressed letter Roc.No.TS1/4807/2006, dated 21-3-2006 to the 1st respondent, Commissioner, Tirupati Municipality, Tirupati and the said letter reads as hereunder :

> "We have received a complaint from the Loksatta, Tirupati about the nuisance created by Goods Lorry Transport Agencies at Sri Kodanda Rama Swamy Temple, North Mada Street, Tirupati. The Loksatta people are requesting us to initiate action to shift them from Sri Kodanda Rama Swamy Temple, North Mada Street to outskirt of the town.
>
> In this context, it is to state that the Lorries Goods Vehicles kept in Sri Kodanda Rama Swamy Temple, North Mada street, Tirupati are becoming a big obstruction at the time of procession of Lord in Four Mada Streets, during Brahmotsavam utsavams and on normal days. The four mada streets belong to TTD and none should encroach the Mada Streets.
>
> To maintain peaceful atmosphere in four mada streets, I request you to pursue further action to shift the Goods Lorry Transport Agencies from Sri Kodanda Rama Swamy Temple, North Mada Street to outskirts of the town and to help us for easy procession of Lord in the Four Mada Streets."

The Municipal Health Officer, Tirupati addressed a letter to the Inspector of Police, Traffic Police Station, Tirupati, the 3rd respondent herein, which reads as hereunder :

> "I am to state that the Lok Satta and the Executive Officer, TTD in their reference cited above have reported that very much nuisance is committed by the Parcel Services around Sri Kodandarama Swamy Four Mada Streets. The Executive Officer, TTD is also very particular about abetment of nuisance by Parcel Services since very much hindrance to the public, Traffic and particularly procession of Lord Sri Kodandarama Swamy Srivari Brahmotsavams and on normal days.
>
> In this connection I have to state to abate the nuisance a notice was already issued under Public Health Act 1939 to the parties by our department to stop the trade to avoid the inconvenience made by them.
>
> Since it is connected to the Traffic I request you to kindly take necessary action in the matter."

6. The main grievance of the petitioners is that they are not causing any obstruction whatsoever for any of the activities concerned with Sri Kodandarama Swamyvari temple and inasmuch as they are carrying on their business during the night hours, absolutely there is no objection either from the 3rd respondent or from the local inhabitants. It is also their specific stand that they are not obstructing any of the processions concerned with the Lord Kodanda Rama Swamy or any other religious activities and they are not causing any inconvenience to any of the pilgrims. It is

needless to say that these are all factual aspects which may have to be gone into by the 2nd respondent, Tirumala Tirupati Devasthanams and also the Tirupati Municipality, the 1st respondent. It is needless to say that incidentally the 3rd respondent also is concerned with the same. In the light of the correspondence referred to supra, it appears the 1st respondent had initiated the present action which had triggered the present litigation. This Court as a writ Court cannot go into all those factual controversies. It is a matter concerned with Kodandarama Swamy temple and the religious rights, rituals and the processions and also the convenience or inconvenience of the general public inclusive of the pilgrims who may be visiting the temple of Lord Kodanda Rama Swamy in the holy town of Tirupati. In the peculiar facts and circumstances, this Court is of the considered opinion that inasmuch as these are all factual controversies, the respondents 1 and 2 may have to take appropriate decision, if necessary taking into consideration all the facts and circumstances by laying down any specific guidelines in this regard i.e., the hours of carrying of business and the modalities to be worked in relation thereto not disturbing any of the religious rites, rituals, processions etc. This Court is not inclined to express any opinion relating to the said modalities to be worked out, if any and the same is left to the respondents 1 and 2. In the light of the same, the petitioners are at liberty to make appropriate

representations within a period of two weeks to both respondents 1 and 2 and let the respondents 1 and 2, especially in the light of the proceedings already referred to supra and also taking into consideration the facts narrated above, to take appropriate decision in this regard within a period of four weeks thereafter.

7. The Writ Petition is accordingly disposed of. No order as to costs.

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Justice P.S. Narayana

Date : 8-9-2006

L.R. copy to be marked : YES / NO

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